

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1331 of 2020

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Mithilesh Varma, D/o Late Baidh Nath Prasad resident of Village- Anand Nagar, P.S.- Bagaha, District- West Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar through the Home Secretary, Government of Bihar, Patna.
2. The General Director of Police, Bihar, Patna.
3. The Inspector General of Police, Muzaffarpur.
4. The Deputy Inspector, General of Police- Champaran, Champaran Range at Bettiah, West Champaran.
5. The Superintendent of Police- Bagaha, District- West Champaran.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Gauri Shankar Thakur, Advocate
For the Respondent/s : Mr. Manish Kumar (GP-4)

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN

ORAL JUDGMENT

Date : 02-11-2023

Heard learned counsel for the petitioner and learned counsel for the State.

2. The present writ petition has been filed directing the respondent to release the salary of the petitioner from 01.05.2017 to 30.06.2017 and further from 01.09.2017 to 31.12.2017 including one-month extra salary which is payable to the petitioner and has been adjusted against extraordinary leave in place of medical leave.

3. Learned counsel for the petitioner submits that the petitioner is entitled to salary of the said period and also



entitled to one-month extra salary. He also submits that the petitioner is a constable in Bihar Police and was appointed in the District of West Champaran at Bagaha on 02.06.2007. During her service, she got injured in a road accident on 28.10.2016 and was referred to Gorakhpur Hospital and thereafter, for better treatment, she was referred to P.G.I, Lucknow. During the course of the treatment, she was transferred from Bagaha to Muzaffarpur, and on her request, four month's stay was granted to the petitioner, but only a salary of two months has been granted as medical leave to the petitioner in spite of order of I.G., Muzaffarpur and as such, the petitioner is entitled for salary of September, October, November and December 2017 (i.e. 01.09.2017 to 31.12.2017).

4. Learned counsel for the petitioner further submits that Superintendent of Police, Bagaha has passed an arbitrary order vide District order No. 1079 of 2017 dated 31.12.2017. He also submits that the petitioner has represented her claim by giving an application to the D.I.G., Champaran at Bettiah, West Champaran on 24.07.2018 for redressal of her grievance but nothing happened and thereafter, she filed the present writ petition.

5. Learned counsel for the State submits that the



detailed counter affidavit has come in which stand has been taken that vide application dated 20.10.2016, the petitioner sought leave for 40 days on account of her mother's operation, and on 27.10.2016, 20 days earned leave was granted by the Superintendent of Police, Bagaha. Thereafter, 200 days of earned leave was available to the petitioner, and the petitioner was supposed to join her service on 17.11.2016, but she did not join. In this regard, DO letter was also issued. Later on, the petitioner filed for an extension of her earned leave for 90 days by filing an application dated 11.12.2016 and she was allowed 90 days earned leave. As such, she was supposed to join her service on 16.02.2017, but she again did not join and sought an extension for her earned leave for another 90 days. In this view of the matter, she has exhausted her 200 days of earned leave and did not join despite the expiry of leave, and in the meantime, she was transferred to Muzaffarpur, District Force and relieved on 01.05.2017 for joining at the new place of posting.

6. Learned counsel for the State further submits that the petitioner's transfer was stayed by the Inspector General of Police, Muzaffarpur for a period of four months i.e. with effect from 01.05.2017, and as such, she was adjusted for a period of



four months and allowed to draw her pay and directed to be relieved after four months i.e. with effect from 01.09.2017 for which DO letter No. 462 of 2017 was also issued. It has been further stated by the State that in this view of the matter, the petitioner has exhausted all her earned leave, and as per her service book, the leave status of the petitioner became nil. Therefore, her absence during the period from 17.05.2017 till 31.08.2017 was decided as extraordinary leave and for that memo No. 1039 dated 24.07.2017 was issued. He also submits that again on 29.12.2017, the petitioner appeared and demanded medical leave of 180 days and her relieving after adjusting her in the Bagaha Police District. Petitioner relied on a medical certificate dated 11.09.2017, the same was considered but her request was rejected and in this regard, the certificate was issued on 11.09.2017 relating to the period of her absence and for the period 01.09.2017 till 31.12.2017 was treated to be spent as extraordinary leave. Learned counsel for the State in this regard submits that a detailed order has been passed which has been annexed as Annexure-J vide Bagaha District order No. 1079 of 2017 issued vide Memo No. 1992 of 31.12.2017.

7. In the light of the submissions made by the parties and upon going through the relevant orders, it transpires



to this Court that there is no need for any interference in the said orders as these orders categorically indicate about every application and its consideration

8. Hence, in this view of the matter, this writ petition is dismissed.

(Dr. Anshuman, J.)

Divyansh/-

AFR/NAFR	
CAV DATE	
Uploading Date	09.11.2023
Transmission Date	

